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## YELLOWSTONE COUNTY ZONING COMMISSION

YELLOWSTONE COUNTY, MONTANA

Monday, December 8, 2014

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SUBJECT: Zone Change #654 – 5912 Elysian Road  
THROUGH: Candi Millar, AICP, Planning Director  
FROM: Nicole Cromwell, AICP, Zoning Coordinator

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### REQUEST

The applicant is requesting a zone change from Residential 5,000 (R-50) and Residential 7,000 (R-70) to Community Commercial (CC) and Residential Multi-family-Restricted (RMF-R) on a 48.38 acre parcel of land described as Lot 2 and a portion of Lot 1, Block 1, Harmony Meadows Subdivision. The property is generally located west of the intersection of Elysian Road and Mallowney Lane at 5912 Elysian Road. The property has two single family dwellings, and a 7,500 square foot agricultural building. The applicant conducted a pre-application neighborhood meeting on October 27, 2014 at the Holiday Inn on Midland Road. The Planning staff is forwarding a recommendation of approval based on the 11 criteria for zone changes.

### APPLICATION DATA

OWNER: James Weber and Harmony Meadows, LLC (contract buyer)  
AGENT: Dax Simek, Morrison-Maierle, Inc.  
LEGAL DESCRIPTION: Lot 2 and a portion of Lot 1, Block 1, of Harmony Meadows Subdivision  
ADDRESS: 5912 Elysian Road  
SIZE OF PARCEL: 48.38 acres  
EXISTING LAND USE: 2 dwellings and an agricultural building  
PROPOSED LAND USE: New subdivision with mixed uses and multi-family dwellings  
EXISTING ZONING: R-50 and R-70  
PROPOSED ZONING: CC and RMF-R

### APPLICABLE ZONING HISTORY

#### Subject Property

**Zone Change #597** – A zone change from Agriculture-Open Space (A-1) to Highway Commercial (HC), Community Commercial (CC), RMF-R, R-70 and R-50 was approved on September 28, 2006.

**Surrounding Properties** – There have been 11 similar zone change requests in this area of Yellowstone County since 1976. One of these applications was denied, one was withdrawn, and 9 were approved.

## **CONCURRENT APPLICATIONS**

**None**

## **SURROUNDING LAND USE & ZONING**

NORTH: Zoning: HC  
Land Use: Titan Subdivision (County)

SOUTH: Zoning: Controlled Industrial (CI) and Residential Manufactured Home (RMH)  
Land Use: Shops and Residential Manufactured Home Park

EAST: Zoning: RMF-R, CC and HC  
Land Use: Agricultural

WEST: Zoning: A-1  
Land Use: Agricultural

## **REASONS**

The subject property is located south of the Elysian Road across from the Titan Subdivision, a County commercial subdivision. The property has 2 dwellings and a 7,500 square foot agricultural building. In 2006, Mr. Weber proposed and was granted a zone change for a new subdivision. The subdivision would have developed within the city limits with a variety of uses including intense commercial uses, mixed uses to serve the surrounding area, multi-family dwellings, single family dwellings, and two-family dwellings. Mr. Weber has sold Lot 1, Block 1, of Harmony Meadows Subdivision to Harmony Meadows, LLC, and the same buyer has a contract to purchase Lot 2. The contract buyer is interested in providing more mixed uses and multi-family dwellings.

The proposed zoning, CC and RMF-R, matches the zoning on Lot 1 of Harmony Meadows and extends this zoning on to Lot 2. The property to the west is currently zoned A-1 but is planned for a new neighborhood by the same developers as Josephine Crossing (McCall Development). The proposed zoning should be compatible with this development. The proposed CC zoning allows a variety of commercial uses, mixed uses and residential uses. The CC zone also allows alcohol service in restaurants and all beverage alcohol service by special review approval. The CC zone could also allow personal storage warehousing but this is not the current intent of the contract buyer.

In 2012, the city adopted a new section of the zoning regulations to apply standards to commercial property that is within 50 feet of a residential zone. Any commercial development that is adjacent to or within 50 feet of a residential zone now requires screening for noise, lower light standards in commercial parking lots, and other measures to reduce impacts to those residential uses. This requirement should help minimize impacts to any surrounding residential zones.

The property has frontage on Elysian Road, a collector street. There is a small county commercial subdivision to the south as well as a manufactured home park. To the north is the Titan Subdivision, a county commercial subdivision with some small retail, larger service shops and a concrete manufacturer. Elysian Road is not yet constructed to collector street standards.

When this property is subdivided – either in the city or county – then improvements to the right of way will be required to accommodate the new traffic.

The proposed and existing zoning require appropriate setbacks, limit building heights and requires landscaping for commercial development. The property is within the 5-year limits of annexation area for the City of Billings. The property is adjacent to commercial and residential uses. The zoning regulations for the city will require additional site design to mitigate any impacts to those residential zones.

The applicant conducted a pre-application meeting on October 27, 2014 and several interested surrounding owners attended the meeting. Concern was expressed about compatibility of adjacent property and areas not under consideration for this zone change including the property frontage on Mullowney Lane and at the intersection of Mullowney Lane and Elysian Road.

Planning staff has reviewed this application and is forwarding a recommendation of approval for the proposed zone change based on the 11 criteria for zone changes. The property proposed for CC zoning is located adjacent to commercial zoning districts to the north and east and has reasonable access to Elysian Road. The proposed RMF-R zoning district is adjacent to CI zoning to the east, A-1 zoning to the south and west. Careful design of a multi-family development will be required to minimize conflicts between the adjacent uses and this property. The proposed CC zoning area could accommodate several types of retail businesses, services for local residents as well as additional multi-family residential or mixed uses.

## **RECOMMENDATION**

Approval of Zone Change #654 and adoption of the 11 criteria for this zone change.

## **PROPOSED ZONING COMMISSION DETERMINATIONS**

The Yellowstone County Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County and City of Billings 2008 Growth Policy?*

The proposed zoning does comply with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in the growth policy. (Land Use Element, page 6).  
*This zone change would allow for commercial development along the street frontage that is south of existing commercial development in the county. The existing zoning of R-50 would not be compatible with this development. The proposed RMF-R zoning south of the proposed CC zone will allow more efficient development of a vacant parcel if city services are provided.*

Goal: New developments that sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

*This property is directly adjacent to county commercial developments to the north and southeast. Careful design will be required by the developer to minimize any incompatibility between these existing uses. Adjacent development is planned to the west that will be a mixture of uses including higher density residential and services.*

2. *Is the new zoning designed to secure from fire and other danger?*

The subject property is currently served by the Billings Urban Fire Service and will be served by the Billings Fire Department if it is annexed to the city. The nearest fire station is located on S 24<sup>th</sup> Street West about 3½ miles to the north and west. The Fire Department or BUFSA may require special construction or site protection measures depending on the specific uses in any development. The existing and proposed zoning requires building separations, setbacks and height limits that should provide security from fire or other public safety emergencies.

3. *Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?*

*Transportation:* The new zoning and the existing zoning will increase traffic on Elysian Road and the adjacent streets. The County will require any new development that adds 500 new vehicle trips per day to analyze the impact of the additional traffic. If the property is annexed and developed, the City Traffic Engineer will require traffic impact analysis to determine the appropriate mitigation or street development to accommodate the new uses.

*Water and Sewerage:* The property will be served by public water and sewer systems if it is annexed to the city. If it is developed in the county, no public services for water or sewer will be provided.

*Schools and Parks:* The proposed zoning may impact the student population. Elysian School is currently constructing additional classroom space that may be flexible enough to accommodate any increase in student population from this development.

*Fire and Police:* The subject property is serviced by BUFSA and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of a development plan. If the property is annexed city, public safety services will be provided by the City Police Department.

4. *Will the new zoning promote health and general welfare?*

The new zoning will allow development of property that is adjacent to existing commercial uses to the north and south and planned residential uses and mixed uses to the west. Commercial development should not have a negative impact on the Titan

Subdivision to the north but careful design will be required for the residential development adjacent to the commercial uses to the east and south.

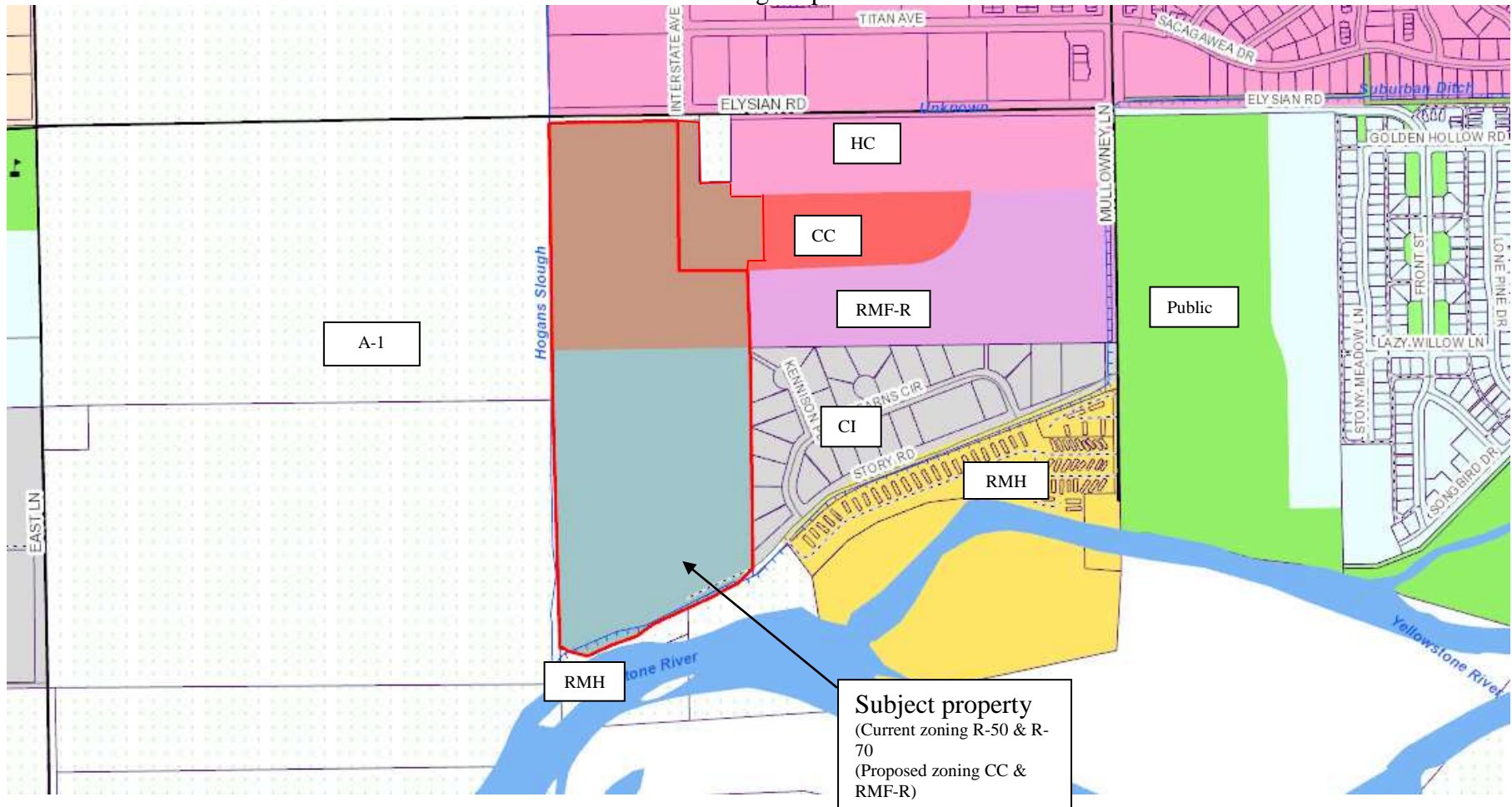
5. Will the new zoning provide adequate light and air?  
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.
6. Will the new zoning effect motorized and non-motorized transportation?  
The proposed zoning itself will not generate more traffic on any of the adjacent streets. Pedestrian traffic in the area is limited due to the lack of sidewalks and trails. Residential development is generally located east of the property. Elysian Road provides the primary route to Elysian School from the residential developments of Riverfront Pointe and Josephine Crossing. There are no shoulders on the pavement of Elysian Road so the travel way for pedestrians, bicycles, and vehicles are shared. Introducing commercial traffic loads to this street could have a detrimental effect on pedestrian, bicycle, and vehicular use of these travel ways. Careful planning by a developer as well as participation in a street improvement project will be necessary to accommodate new uses.
7. Will the new zoning be compatible with urban growth in the vicinity?  
The proposed zoning is compatible with the adjacent zoning and developments. New residential development to the west may require this property to minimize any impacts from noise, lighting or commercial activity.
8. Does the new zoning consider the character of the district and the suitability of the property for particular uses?  
The subject property is in an area that is a mix of county commercial and residential uses. The property is suitable for CC and RMF-R uses and the site development will be in character with the adjacent uses.
9. Will the new zoning conserve the value of buildings?  
The new zoning will allow the development of new commercial uses adjacent to similarly zoned property and new multi-family dwellings adjacent to county commercial development. There are two existing dwellings on the site and a large agricultural building. The proposed zoning allows these uses. The zoning regulations will conserve the value of adjacent buildings by employing enhanced development standards for building design, lighting and landscaping.
10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?  
The property is suitable for the uses allowed in the CC zoning district and the RMF-R zoning. Development of the property is likely to occur after annexation.

11. *Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?*

The proposed zoning is close to the City of Billings and within the limits of annexation. CC zoning along collector streets and across Elysian Road from HC zoning is compatible with typical urban development. The proposed RMF-R zoning will require the developer to provide on-site screening and buffering to county development to the south and any new commercial development in the CC zone.

Attachment A:	Zoning Map
Attachment B:	Applicant Letter & Pre-application neighborhood meeting minutes
Attachment C:	Site Photographs

**Attachment A - Zone Change #654**  
**Zoning Map**



**Attachment B - Zone Change #654**  
Applicant Letter & Pre-application neighborhood meeting minutes

**APPLICATION FORM** P2-14-00238  
**COUNTY ZONE CHANGE** ID: County Zone Change # 654 - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings-Yellowstone County Unified Zoning Regulations.

Present Zoning: R50 (Residential 5000) & R70 (Residential 7000)

Proposed Zoning: CC (Community Commercial) & RMF-R (Residential Multi-Family - Restricted)

Tax ID # D01925 & D01925B COUNTY COMMISSIONER DISTRICT # 1

Legal Description of Property: Harmony Meadows Subdivision 1st Filing, S 19, T 01S, R 26E, Block 1, Lot 2 & the portion of Lot 1 currently zoned R50.

Address or General Location (If unknown, contact County Public Works): 5912 Elysian Road, Billings, MT 59101

Size of Parcel (Area & Dimensions): 48.38 Acres. Parcel dimensions are approximately 2,390 ft by 920 ft.

Present Land-Use: The land is currently used for agricultural production.

Proposed Land-Use: It is assumed that an apartment style project will be located in the RMF-R portion of lot. It is unknown how the CC portion will develop at this time.

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X \_\_\_\_\_

If yes, please attach to application

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): James A. Weber & Harmony Meadows, LLC - Contract Buyer

(Recorded Owner) 6238 Golden Eagle Way, Billings, MT 59101

(Address) 406-655-4646 calkunkel@gmail.com

(Phone Number) (email)

Agent(s): Morrison-Maierle, Inc., Dax Simek, PE

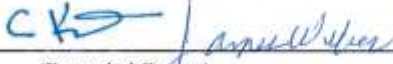
(Name) 315 S. 25th Street, Suite 102, Billings, MT 59101

(Address) 406-237-1263 dsimek@m-m.net

(Phone Number) (email)



I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature:  Date: 10/31/14  
(Recorded Owner)

County Zone Change 2013-2014 updated 9/13/13



# HARMONY MEADOWS ZONE CHANGE APPLICATION - SIGN-IN LIST

**Project:** Harmony Meadows Zone Change Application - Public Meeting  
**Date/Time:** Monday, October 27, 2014, 6:00pm  
**Location:** Holiday Inn Grand, 5500 Midland Road, Billings, MT 59101

NAME	ADDRESS	PHONE	E-MAIL
Dax Sinek	815 N. 25th St. Ste. 102	656-6000	dsinek@w-u.net
Patrick Gueber	8210 Amy Dr.	861-0485	Sunsh00@gmail.com
Tavis McNeal	2029 First Park Drive	697-2173	tavis@stockdata.com
Gary Armstrong	1701 East Ln	655-4439	garnt71@gmail.com
Blaine Poplar	5403 King Ave W.	671-0399	blaine@cheermontana.com
Greg McCall	1615 Front St	571-4747	greg@mcscalldevelopment.com
Brad McCall	1621 Front St	571-4748	brad@mcscalldevelopment.com
Robert Taylor	5819 Kennison Pl.	698-6485	erobert@ohioval.com
Kenoy Wapler	1807 East Lane	656-5505	
Norm Willett	1807 East Lane	656-5905	
Leann Kaskel	1644 Singsburg	656-5258	leannkaskel@comcast.net
Sharon Dargatzis	6132 So 3rd Rd	656-3955	gettruck@usadig.com
Sheri Schultz	6134 S Frontage Rd.	800-60759	
ED Taylor	5819 Kennison Pl.	698-6480	TaylorElectricMT@gmail.com

### **Pre-application Meeting Synopsis**

Yellowstone County requires that a pre-application meeting be conducted prior to the zone change application submittal. As such, a meeting was held on Monday, October 27, 2014 at the Holiday Inn Grand at 5500 Midland Road. Dax Simek, PE of Morrison Maierle, Inc. facilitated the meeting to present the proposed zone change and address any questions or concerns from those in attendance.

Fourteen people attended the meeting to discuss the proposed zone change. Clarification was made on the areas of the proposed zoning – approximately 13.25 Ac will be zoned Community Commercial and 35.13 Ac will be zoned Residential Multi-Family – Restricted.

Brad and Greg McCall brought up concerns regarding the proposed zoning and how it would fit in with their proposed project. They suggested changing the zoning near the intersection of Elysian Road and Muldowney Lane from Highway Commercial to a lower density zoning such as Neighborhood Commercial. This area is not included in the proposed zone change. The McCall's and others in attendance are worried that commercial zoning along Elysian road may look trashy like some of the Titan Subdivision properties.

Representatives from Taylor Electric asked if the developer would consider changing the Residential Multi-Family - Restricted zoning along Muldowney to Community Commercial or Highway Commercial to match up better with the properties along Story Road. It was mentioned that during the initial zoning of the Harmony Meadows property the Church on the east side was strongly opposed to any high density zoning along Muldowney Lane.

The McCall's asked to meet with the developer to discuss a plan that is beneficial to all.

Overall, the tone of the meeting was civil with the majority of comments dealing with what the future commercial development along Elysian Road might look like and how it would fit in with the proposed residential development in the area.

**Zone Change Plan**  
**5912 Elysian Road, Billings, MT**












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The subject property located at 5912 Elysian Road, Billings, Montana is legally described as Harmony Meadows Subdivision 1<sup>st</sup> Filing, Lot 2 and the portion of Lot 1 currently zoned R-50, S19, T01 S, R26 E. The parcel is currently zoned R-50 and R-70, or Residential 5,000 and Residential 7,000, respectively.

The intent of this Zone Change Plan is to re-zone the northern portion of the property to CC, or Community Commercial, and the southern portion of the property to RMF-R, or Residential Multi-Family - Restricted. The figure at right shows existing zoning of the subject and surrounding properties.



Re-zoning of the parcel with Community Commercial and Residential Multi-Family – Restricted will offer predictable development going forward. According to the City of Billings and Yellowstone County Unified Zoning Regulations, the Community Commercial zoning classification is defined as: "CC – Community Commercial: The Community Commercial zone is

LEGEND	
	Agriculture/Open Space (County Only)
	Residential 10,000 (County Only)
	Residential 7,000
	Residential 5,000
	Residential Multi-Family - Restricted
	Residential Multi-Family - Restricted
	Community Commercial
	Highway Commercial
	Controlled Industrial
	Public
	Planned Unit Development
	Site-Specific Standards



intended primarily to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community, and is commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands (thirty (30) acres) centrally located in the trade area rather than a strip development along arterials." The Residential Multi-Family -Restricted zoning classification is defined as: "RMF-R – Residential Multi-Family – Restricted: A residential classification intended to provide adequate sites for multi-family developments. The classification is intended to provide higher density apartment development, which may establish a buffer between single-family residence areas and other zoning classifications. Lots are to be served by public water and sewer services."

In consideration of the property's location, surrounding zoning and assumed development plans of neighboring properties it is appropriate to re-zone the parcel as a mix of Community Commercial and Residential Multi-Family – Restricted.




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# **LEGEND**

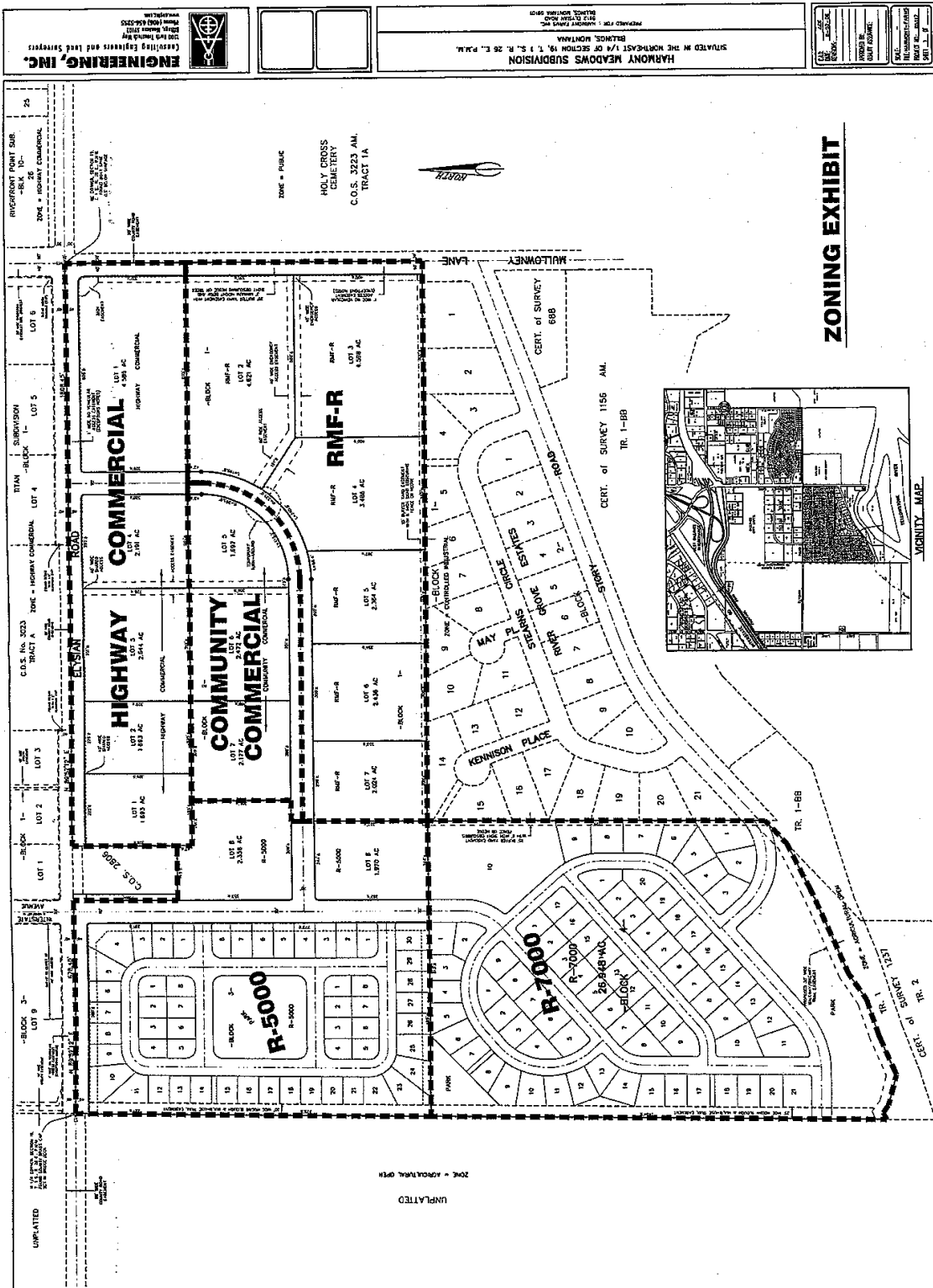
SITE AREA BOUNDARY



 <b>MORRISON MAIERLE, INC.</b> <small>ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS</small>	215 N. 25th Street Suite 102 Billings, MT 59101  Phone: (406) 636-6000 Fax: (406) 327-1201  <small>COPYRIGHT: MORRISONMAIERLE, INC. 2010</small>	DRAWN BY NMV CHECKED BY DCS APPROVED BY DCS  DATE: 12/16/14	HARMONY MEADOWS ZONE CHANGE		PROJECT NO: 2007-005-000218
			BILLINGS	MONTANA	FIGURE NUMBER FIG. 2
			SITE AERIAL MAP		



## Original Zoning Change Plan 2006



**Attachment C – Zone Change #654**  
**Site Photographs**



**Subject property – view from Elysian Road**



**View east to existing buildings along Elysian Road**  
**Page 14 of 16**

**Attachment C – Zone Change #654, continued**  
**Site Photographs**



View north across Elysian Road – Titan Subdivision



View north and west across Elysian Road



**Attachment C – Zone Change #654, continued**  
**Site Photographs**



View east along Elysian Road



Aerial View